U.S. PTO and entered into the record of the application. The Status indication in the Office Action Summary form is therefore deemed to be due to an inadvertent error.

The same applies, mutatis mutandis, to the Disposition of Claims indicated in the form. According to Nos. (6) and (7) of the form PTOL-326 Claims 1, 2, 4, 6 to 8 and 15 stand rejected, and Claims 3 and 9 stand objected to.

In contrast thereto, the body of the Office action indicates that Claims 7 and 15 are objected to under 37 C.F.R. §1.75(c) for being dependent on a method claim. However, applicants' reply of July 07, 2005, presented Claim 7 in independent form. Claim 15 depends upon Claim 7 and both claims are drawn to a certain composition. The Examiner's objection to Claims 7 and 15 is, therefore, not deemed to apply to the claims as currently pending and withdrawal is respectfully solicited.

Also in contrast to the Disposition of Claims indicated in the form PTOL-326, the sole rejection raised by the Examiner in the body of the Office action pertained to Claim 6 which was rejected under 35 U.S.C. §112, ¶2, as being indefinite. The Examiner stated that it was unclear what the components of the extract etc. were. Claim 6 refers to an extract etc. *"comprising flavonoids and other phenolic constituents obtained from grapes of a red grapevine variety"* and in which *"the content of flavonoids and other phenolic constituents of the grapevine has been increased and qualitatively modified"* by treatment of the grapevine with at least one acylcyclohexanedione of the formula I.[1] The test of definiteness is whether a person of ordinary skill in the art would understand the bounds of the claim with a reasonable degree of precision when reading it in the light of the supporting specification.[2] Under those standards developed by the Courts Claim 6 is deemed to be fully in compliance with Section 112, ¶2. Favorable reconsideration of the Examiner's position and withdrawal of the respective rejection is therefore respectfully solicited.

1) Cf. eg. also page 6, indicated line 24, to page 7, indicated line 31, of the application.

2) Cf. *Morton Int. Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 28 USPQ2d 1190 (Fed. Cir. 1993); *Orthokinetics Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986). Cf. also *Ex parte Wu*, 10 USPQ2d 2031 at 2033 (BPAI 1989): "In rejecting a claim under the second paragraph of 35 U.S.C. 112, it is incumbent on the examiner to establish that one of ordinary skill in the pertinent art, when reading the claims in light of the supporting specification, would not have been able to ascertain with reasonable degree of precision and particularity the particular area set out and circumscribed by the claims."

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The Examiner also indicated in the body of the Office action that Claim 3 and 9 were objected to as being dependent upon a rejected base claim, and that those claims would be allowable if rewritten in independent form. Claims 3 and 9 depend upon Claim 1, and the Examiner did not include Claim 1 in a rejection set forth in the body of the Office action. Accordingly, Claims 3 and 9 are deemed to be allowable. The same applies, mutatis mutandis, to Claims 2 and 4 which depend upon Claim 1 and were not further referenced in the body of the Office action.

In light of the foregoing and the Examiner's indication that Claims 10 to 14 were allowable, all of applicants' claims should now be allowable, and the application is deemed to be in condition for allowance. Favorable action is respectfully solicited. Early action by the Examiner would be greatly appreciated by applicants.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 14.1437. Please credit any excess fees to such deposit account.

Respectfully submitted,
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